

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

ANNIE LAURIE GAYLOR; DAN	)	
BARKER; IAN GAYLOR, PERSONAL	)	
REPRESENTATIVE OF THE ESTATE OF	)	
ANNE NICOL GAYLOR; and FREEDOM	)	
FROM RELIGION FOUNDATION, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 3:16-cv-00215
	)	
JACOB LEW, Secretary of the United States	)	
Department of Treasury; JOHN KOSKINEN,	)	
Commissioner of the Internal Revenue	)	
Service; and the UNITED STATES OF	)	
AMERICA,	)	
	)	
Defendants.	)	

**PRELIMINARY PRETRIAL CONFERENCE REPORT**

The parties jointly submit the following Preliminary Pretrial Conference Report:

1. Statement of the Case. The plaintiffs allege that the federal income tax exclusion as applied to them under 26 U.S.C. §107(2) violates the Establishment Clause. Defendants deny that 26 U.S.C. §107(2) is unconstitutional.
2. Name of Related Cases. None.
3. Statement of Factual and Legal Issues. Whether the federal income tax exclusion as applied to plaintiffs under 26 U.S.C. §107(2) is unconstitutional.
4. Description of Amendments to Pleadings. The parties reserve the right to amend pleadings as allowed by the Court's Scheduling Order.
5. Identity of Added New Parties. None anticipated at this time.

6. Estimated Trial Length. Should trial be required, the parties anticipate that trial would take a maximum of two days.

7. Other Matters Which May Affect Disposition of Case. None.

8. Electronically Stored Information. Each party may request disclosure of electronically stored information relevant to the claims and defenses made by both parties. Such requests will be limited to electronically stored information that is:

- a. reasonably available to the parties in the ordinary course of business;
- b. proportional to the needs of this case; and
- c. limited in terms of scope, cost, and time required to produce such information.

The parties further agree that electronically stored information will be produced in printed form, *i.e.*, in .PDF format or as TIFF images with a load file. All such data will be produced to the opposing party on one or more recordable compact discs. The United States reserves the right to request electronically stored information in native form to the extent the requested information is not privileged and is within the scope of discovery and can be produced electronically at a cost reasonable under the circumstances.

9. Proposed Discovery Plan. The parties propose the following deadlines:

- a. Parties to exchange Rule 26(a) initial disclosures by: December 1, 2016
- b. Deadline for the disclosure of expert witnesses: April 3, 2017.
- c. Deadline for the disclosure of rebuttal expert witnesses: May 15, 2017.
- d. Dispositive motions deadline: July 31, 2017.
- e. Discovery deadline: September 29, 2017.
- f. Trial date: November 20, 2017.
- g. The parties reserve the right to depose each individual disclosed on the parties' Rule 26(a) initial disclosures plus the ten (10) depositions allowed by Rule 30.
- h. Pursuant to Rule 5(b)(2)(E), the parties agree to receive service by e-mail of all items such as written requests for discovery, letters, and other documents required to be exchanged but not filed with the Court. Further, written requests for discovery shall be served in both PDF and word-processing format so that the receiving party need not re-type every request in its response.

//

//

//

//

//

//

//

//

//

//

//

//

//

Dated: November 14, 2016

BOARDMAN & CLARK LLP

By:

/s/ Richard L. Bolton

Richard L. Bolton

Wisconsin State Bar No. 1012552

1 South Pinckney Street, Suite 410

P. O. Box 927

Madison, WI 53701-0927

Telephone: (608) 257-9521

Facsimile: (608) 283-1709

*Attorneys for Plaintiffs*

CAROLINE D. CIRAOLO

Principal Deputy Assistant Attorney General

/s/ Richard G. Rose

RICHARD G. ROSE

District of Columbia Bar Number: 493454

U.S. Department of Justice

Tax Division

Post Office Box 7238

Ben Franklin Station

Washington, D.C. 20044

Telephone: (202) 616-2032

Facsimile: (202) 514-6770

E-mail: richard.g.rose@usdoj.gov

/s/ Erin Healy Gallagher

ERIN HEALY GALLAGHER

District of Columbia Bar Number: 985670

U.S. Department of Justice, Tax Division

Post Office Box 7238, Ben Franklin Station

Washington, D.C. 20044

Telephone: (202) 353-2452

Facsimile: (202) 514-6770

E-mail: erin.healygallagher@usdoj.gov

JOHN W. VAUDREUIL

United States Attorney

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I certify that, on November 14, 2016, service of the foregoing Preliminary Pretrial Conference Report was made upon plaintiffs by filing it with the Clerk of Court using the CM/ECF system.

/s/ Richard G. Rose  
RICHARD G. ROSE